

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMULO VERSOZA Y GARCIA AND JERRY AVENDAÑO Y MENDOZA, DEFENDANTS-APPELLANTS.

G.R. No. 118944. August 20, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal from the 11 November 1994 Decision in Criminal Case no. 14940 of the Regional Trial Court of Malabon, Branch 72,[1] finding appellants Romulo Versoza y Garcia and Jerry Avendaño y Mendoza, guilty beyond reasonable doubt of highway robbery with homicide as defined and penalized under Presidential decree No. 532 and imposing upon them the penalty of life imprisonment and the payment of civil indemnity in the amount of P50,000.00, interment of P70,000.00, moral damages of P100,000.00 and the costs of suit.

The Information[2] dated 5 May 1994 charged:

That on or about the 21st day of April 1994, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused; armed with a gun, conspiring, confederating and mutually helping with (sic) one another, with intent to gain and by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously take, rob and carry away the passengers wristwatches with an unestimated amount while aboard a passenger jeepney with Plate No. NYZ-655, along NBB South, Navotas, Metro Manila and in the course thereof said accused with intent to kill, wilfully, unlawfully and feloniously, shoot passenger ALBERTO APLAON, hitting the latter on the back of his head, thereby inflicting upon the victim gunshot wound cause (sic) his immediate death.

Contrary to law.

Appellants pleaded not guilty to the offense charged. Their other co-accused, John Doe, remains at-large. Trial on the merits of the case ensued with the prosecution presenting four (4) witnesses, namely: (a) Estrella Aplaon, the victim's wife; (2) eyewitness, Arthur Dojenas; (3) SPO1 Daniel Ferrer, the investigating/arresting officer; and (4) Dr. Florante Baltazar, the medico-legal officer who performed the autopsy on the victim.

This case was spawned by an incident that occurred at around 9:00 in the morning of 21 April 1994. According to eyewitness Arthur Dojenas, he left his house at Sawata, Dagat-dagatan, Caloocan City that morning to report for work as headwaiter at the Savory Restaurant in Greenhills, San Juan, Metro Manila. He boarded a passenger jeepney with plate no. NYZ-655, en route to Divisoria. At around 9:00 a.m., while the passenger jeepney was cruising along the C-3 Road, North Bay Boulevard, Navotas, Metro Manila, one of the passengers, who was later identified as Romulo Versoza, suddenly cried out: "Hold-up ito. Walang papalag." [3]

Versoza grabble the necklace of one of the passengers who was later identified as Alberto Aplaon. Aplaon immediately reacted and shouted, "Anong Hold-up?" as he simultaneoulsy grabbed the firearm of Versoza. When Aplaon successfully wrested the firearm from Versoza, someone seated at the rear of the jeepney, who was later identified as Jerry Avedaño, pulled out a gun and shot Aplaon, hitting his head just above the nape. Aplaon fell to

the floor of the jeepney. Before alighting from the jeepney along North Bay Boulevard, one of the three perpetrators snatched the wristwatch of a passenger seated in front of the jeepney. Versoza, Avendaño and their unnamed associate ran towards the squatters' area in front of the Sulpicio Lines Compound along North Bay Boulevard.

The police authorities were subsequently summoned. Dojenas alighted from the jeepney and waited for the policeman to arrive. Meanwhile, the driver of the jeepney rushed Aplao to the Tondo General Hospital for treatment. He was pronounced dead on arrival.

Minutes later, several policeman arrived at the crime scene and conducted an investigation on the holdup incident. Dojenas volunteered to accompany the policemen to the squatters' area to look for and identify the perpetrators, but their search proved futile. Dojenas and the policemen proceeded to the Tondo General Hospital where they were informed that Aplao had died. Dojenas went with the policemen to the Navotas Police Station where he gave his statement about the incident before SPO1 Daniel Ferrer, the investigator on the duty at the Navotas Police Station.[4] SPO1 Ferrer requested the PNP Crime Laboratory Services-National Capital Region Unit, to conduct an autopsy on the body of Aplao.[5]

Dr. Florante Baltazar, Chief Inspector and Medico-Legal Officer, conducted the autopsy at around 1:00 in the afternoon of the same day. His examination revealed that victim Aplao died of a single gunshot wound to the back of his head.[6] He issued a medico-legal report[7] with the following findings: (1) gunshot wound, right parietal as the point of entry, 156.5 cm, from heel, 5 cms. From midsagittal line, measuring 0.8 x 0.7 cm., with contusion collar, measuring 0.9 x 0.8 cms., directed downwards, forwards (sic), right to left, fracturing the right parietal, left orbital plate, greater wing of the left sphenoid with a deformed slug recovered embedded thereat, lacerating the left and right cerebral hemisphere of the brain, (2) abrasion, right frontal region, measuring 3 x 2 cms., 5 cms. from anterior midline, and (3) hematoma, left infra-orbital region measuring 4.5 x 2 cms., 4 cms. from anterior midline."

Dr. Baltazar also recovered a .38 caliber slug from Aplao's head. He opined that the relative distance between the assailant and the victim was more than 24 inches and that based on the downward trajectory of the bullet on the forehead from right to left, the assailant was in a "higher" position than, and was at the back of, the victim.[8]

At around 12:05 a.m. of 1 May 1994, SPO1 Ferrer was along R-10 Road, Sitio Sto. Niño, North Bay Boulevard conducting a follow-up investigation when Lito Francisco, another victim in a separate robbery hold-up incident, approached him. Francisco told him that he could identify one of his assailants and accompanied SPO1 Ferrer to nearby Barangay Puting Bato where the alleged perpetrator was attending the wake of his grandmother. Upon their arrival, Francisco positively identified Versoza, a resident of R-10 Road, No. 1350 Sitio Sto. Niño, BBB South, Navotas, Manila, as the perpetrator of the holdup in which he was one of the victims. Immediately, SPO1 Ferrer frisked Versoza. He found and confiscated from Versoza a ruler measuring 8-1/2 inches long with an improvised knife at its end. SPO1 Ferrer apprehended Versoza and brought him to the Navotas Police Station for further investigation.[9]

Thereafter, SPO1 Ferrer went to Dojenas' house and asked Dojenas to go to the Navotas Police Station to find out if any of those detained there were the perpetrators of the 21 April 1994 robbery with homicide incident. A police line-up of the detained persons, including Versoza, was formed and Dojenas unhesitatingly and positively identified Versoza as the one who grabbed the necklace of Aplao.[10]

Three days later, a follow-up police team apprehended and detained Avendaño. Once again, SPO1 Ferrer contracted Dojenas and asked him to go to the police station to identify any of the culprits among the detainees. Dojenas positively identified Avendaño as the person who shot Aplao.[11]

On 4 May 1994, Dojenas executed a Sinumpaang Salaysay[12] attesting to the fact that he witnessed the holdup staged by at least three persons, two of whom being Versoza and Avendaño.

Testifying in his defense, Versoza maintained that at around 9:00 in the morning of 21 April 1994, he and his cousin, Henry Redoblado, were vending prawns at the small market located in Marcelo St., Navotas. While doing so, Versoza saw three (3) fair-skinned person with high noses and who were wearing long sleeved shirts, run towards the squatters' area with policemen in pursuit. The authorities, however, failed to arrest them.[13] Later in the afternoon, some policemen went to the squatters' area to pick up a suspect in connection with a robbery with homicide case. The said suspect later on told Versoza that the police released him after the victim, who was then at the Tondo General Hospital, failed to identify him as one of the malefactors.

Versoza was drunk and attending the wake of his grandmother at Barangay Puting Bato when the police picked him up. He alleged that the police frisked him and place a deadly weapon inside his pocket. Then he was brought to the Navotas Police Station where he was falsely charged with illegal possession of deadly weapon. While in detention, Versoza claimed that Dojenas came and initially could not point to him as one of the malefactors. It was only when Dojenas went to the police station a second time that he identified him (Versoza) as one of the perpetrators. Versoza asserted on the witness stand that he was not acquainted with Avendaño whom he met for the first time when the latter was also detained two days after his own detention on 1 May 1994. Versoza learned that Avendaño lived 200 to 250 meters away from their house only after they were detained at the police station.

For his part, Avendaño swore that at 7:30 in the morning of 21 April 1994, he was at the Powerman Employment Agency in Padre Faura St., Ermita, Manila to file his application for a job in Bahrain. He left the agency at 11:00 a.m.

Avendaño narrated that on 3 May 1994, SPO1 Ferrer arrested him and brought him to the Naval Massage Parlor along North Bay Boulevard where one of its personnel was asked to identify him as the person who held them up. The person failed to identify him but he was nevertheless brought to and detained at the Navotas Police Station. While in detention, he was informed that he would be charged with concealing a deadly weapon. Thereafter, a certain Mrs. Aplao entered the detention cell but she did not point to him. Later, SPO1 Ferrer asked him to line up with four (4) other detainees. Avendaño positioned himself in the middle of the line-up. Dojenas entered and pointed to him as one of the malefactors in the 21 April 1994 robbery with homicide incident. When Dojenas pointed at him, Avendaño just bowed his head and did nothing.

On cross-examination, Avendaño testified that he left his house at around 7:30 a.m. to apply for a job in Bahrain at a recruitment agency in Padre Faura. He boarded a jeepney for Divisoria at 7:50 a.m. At around 8:12 a.m. he arrived in Divisoria where it took him about eighteen (18) minutes before he could get a ride for Padre Faura. At 9:00 a.m. or thirty (30) minutes later, he reached Padre Faura and filed his application for a job at the Powerman Employment Agency. Two hours later or at around 11:00 in the morning, he arrived home. Avendaño affirmed that he first met Versoza when they were both detainees at the Navotas Police Station. He also learned that Versoza resided in Sitio Sto. Niño, R-10 Road, North Bay Boulevard.[14]

On 11 November 1994, the trial court promulgated the challenged decision that found Versoza and Avendaño guilty beyond reasonable doubt of the crime of highway robbery with homicide. In meting out the penalty of life imprisonment upon them, the trial court gave full faith and credit to the eyewitness account of Arthur Dojenas, rejected the defense of alibi that both accused interposed for miserably failing to support their claims with any evidence.[15] The dispositive portion of the decision reads, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding both accused namely: Romulo Versoza y Garcia and Gerry Avendaño y Mendoza guilty beyond reasonable doubt of the crime of Highway

Robbery with Homicide, defined and penalized under PD No. 532 and they are both sentenced to life imprisonment.

Both accused are also ordered to pay the heirs of Alberto Aplao the following: (a) the admitted amount of P70,000.00 spent for the death and burial of Aplao; (b) P100,000.00 by way of moral damages; and (c) P50,000.00 for loss of Aplao's life.

Costs against the two (2) accused.

SO ORDERED.[16]

On appeal, Versoza and Avendaño anchor their prayer for acquittal on the alleged unreliability of the positive identification made by the lone eyewitness who testified at the trial – Arthur Dojenas. They claimed that when Arthur Dojenas pointed to them as the perpetrators, there were other detainees inside the detention cell and it was possible that one of those other detainees could have been the real culprit. They assert that Dojenas did not point to them right away during the confrontation at the police station. Neither was Dojenas' testimony corroborated by any other witness.[17]

Specifically, appellant Avendaño attempts to discredit his identification as one of the perpetrators of the crime by claiming that his name is Cherry and that his middle name is Pagatpat while the information and the dispositive portion of the assailed decision speak of a certain “Jerry Avendaño y Mendoza.”

Appellants' contentions deserve little credit.

In *People vs. Teehankee*,[18] the Court enumerated the factors that should be considered in adopting the totality of circumstances test in resolving the admissibility of out-of-court identification of suspects:

xxx (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and (6) the suggestiveness of the identification procedure.[19]

Using this test in the case at bar, eyewitness Dojenas' identification of appellants at the police line-up as the perpetrators of the 21 April 1994 robbery with homicide is solid and convincing. The robbery was staged in broad daylight, thus, undoubtedly, visibility was clear and Dojenas had all the opportunity to see the culprits. He witnessed every detail of the holdup since he was one of the passengers inside the jeepney and would naturally be keenly observing what would happen next as he faced the same danger that the victim did. Seeing appellants again at the police station and at the police line-up within two weeks after the incident, Dojenas could still sufficiently remember their features and distinctly tag them as the culprits in the 21 April 1994 robbery with homicide.

Furthermore, Dojenas testified in a straightforward and categorical manner regarding the identities of the malefactors. He did not waver despite the grueling and extensive question fielded by the defense. He remained consistent and steadfast despite the defense counsel's repetitive questions seemingly designed to confuse him.[20] He testified, thus:

Q: Now, did you ever see the two (2) accused again after that incident of April 21, 1994?

A: Yes, sir, at the Navotas Police Station.

Q: When was that, when you saw them at the Navotas Police Station?

A: May 1, 1994.

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Q: Why did the police investigator has to fetch you (sic), what is the purpose?

A: To identify the holduppers.

Q: And were you able to go to the police headquarters?

A: Yes, sir.

Q: At the Navotas Police Station?

A: Yes, sir.

Q: What happened there?

A: I pointed to the suspects.

Q: Where were the suspects when you pointed them both of them at one instance?

A: They were on two (2) different cells.

Q: Whom did you identify first?

A: Him. (Witness pointing to Romulo Versoza.)

Q: Where was Romulo Versoza when you identify him.

A: Inside the cell.

Q: Was he alone.?

A: He was with several detainees.

Q: How many detainees were there when you identified Romulo Versoza?

A: More or less five (5).

Q: What made you identified (sic) Romulo Versoza?

A: Necause (sic) I recognized his face.

Q: Why, was the appearance of Romulo Versoza so easy for you to identify?

A: Yes, sir, because I remembered his face because I was near him.

Q: When the incident happened, where were you seated at the passenger jeepney in relation to where Romulo Versoza (sic)?

A: We were facing each other at the rear portion of the jeep. (Underscoring ours.)

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Q: After you have pointed Romulo Versoza inside the detention cell together with the five (5) detainees, what did you say (sic)?

A: He remained silent.

Q: He did not say no I am not the one?

A: No, sir.

Q: Why did he get mad he just received you identifying him (sic)?

A: Yes, sir.

Q: How about the other one Gerry Avendaño, when did you see him again after the killing?

A: There also at the detention cell.

Q: On the same date when you identified Romulo Versoza?

A: Not on the same date when I pointed to Romulo Versoza, three (3) days after.

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Q: Where was he when you pointed to him as a person involved in the incident?

A: Inside the cell.

Q: Was he alone?

A: He was with several.

Q: How many?

A: More or less ten (10).

Q: What did he say when you pointed to him as a person involved in the incident?

A: He remained silent also.

Q: He did not protest or react to what you have done in pointing to him?

A: No, sir.[21]

Appellants were placed in police line-ups with other persons precisely to test the eyewitness, Arthur Dojenas, if he could readily identify the real perpetrators. The presence of several other detainees, notwithstanding, Dojenas was successful in picking as the culprits in the robbery with homicide.

In attempting to destroy his identification by Dojenas, appellant Avendaño insist that said witness was not aware of his true and real name as he was mentioned in the sinumpaang salaysay, charged in the information and convicted by the trial court as “Jerry Avendaño y Mendoza” and not as “Cherry Abendaño y Pagatpat,” his real name. In sum, it is appellant Avendaño’s view that the identities of the malefactors can only be established if the witness knows their names.

This is puerile reasoning. Identification of a person is not established solely through knowledge of the name of a person. Familiarity with physical features particularly those of the face, is actually the best way to identify a person. One may be familiar with the face but not necessarily the name. It does not follow, therefore, that to be able to identify a person, one must first know his name.[22] Moreover, it is completely illogical to equate and limit positive identification to a knowledge of the real names of the culprits since more often than not, robbers victimize people who are complete strangers to them and who do not know them by face or name purposely to avoid being recognized and positively identified.

It is, therefore, enough that an eyewitness positively identify the culprits in a crime by means of their faces or physical features. Experience shows that precisely because of the unusual acts of bestiality committed right before their eyes, eyewitnesses, especially the victims of a crime, can remember with a high degree of reliability the identify of criminals.[23] The natural reaction of victims of criminal violence is to strive to see the appearance of their assailants and observe the manner the crime was committed. Most often, the face and the body movements of the assailants create an impression that cannot be erased easily from their memory.[24] In the instant case, moreover, it was not shown that Dojenas had any ill motive to falsely testify against appellants. In this age of indifference, this citizen should be commended for not shirking from his duty as a responsible member of society.

It bears stressing that appellant Avendaño raised the issue of his being charged and convicting allegedly under a wrong name for the first time on appeal. When eyewitness Dojenas identified him in court, no objections were made by the defense as to Avendaño’s first and middle names and none were registered in the transcript of stenographic notes. Neither do the records bear out any effort on Avendaño’s part to raise the issue that the person being charged with the crime is named Jerry Avendaño y Mendoza and not Cherry Abendaño y Pagatpat. Having failed to make an objection as to his exact name in the course of the trial, it was too late for appellant Avendaño to raise the matter on appeal. It is axiomatic that an objection in the course of the oral examination of a witness should be made as soon as the grounds shall become apparent. Since no objection to the admissibility of

evidence was made in the court below, an objection raised for the first time on appeal will not be considered.[25]

Appellants further claim that the elements of conspiracy had not been indubitably proven in the case at bar. They assert that they did not know each other prior to their detention at the police station. However, contrary to appellants' assertion, the prosecution has proven beyond a shadow of doubt that they conspired in the commission of the crime. In conspiracy, direct proof of a previous agreement to commit by which the offense was perpetrated, or inferred from the acts of the accused when such point to a joint purpose and design, concerted action, and community of interest.[26]

Conspiracy has been amply and sufficiently proven in this case. Appellant Versoza simultaneously announced the holdup, pulled out his gun tucked in his pants, pointed his gun at Aplao and grabbed the latter's necklace. When Aplao resisted and successfully wrested Versoza's gun, appellant Avendaño pulled out his gun and shot Aplao on the head. Not contented with what happened, before alighting from the jeepney, one of them grabbed the wristwatch of another passenger seated in front of the jeepney. Both appellants and their unnamed cohort ran in the same direction towards the squatter's area along North Bay Boulevard. There is, therefore, no doubt that there was unity of purpose and design in the execution of the unlawful act.[27]

In the same manner, appellants' alibi collapses in the face of their positive identification as the perpetrators of the crime.[28] Appellant Versoza contends that he was selling prawns in the market located at Marcelo St. in Navotas. His alibi, however, deserves scant consideration. Jurisprudence dictates that for the defense of alibi to prosper, it is not sufficient that appellant proves that he was not at the crime scene when the incident happened but, likewise, that it was physically impossible for him to be there at the time of the commission of the offense. In this case, when the robbery with homicide occurred, Versoza was within the vicinity of the scene of the crime.

In Avendaño's case, other than his self-serving statement, not a single witness or document was presented to corroborate his story that he was at the Powerman Employment Agency.

The identification of appellants as the persons who robbed the passenger jeepney and gunned down Aplao after robbing him of his necklace is, therefore, beyond peradventure of doubt. However, the trial court erred in convicting them of the crime of highway robbery with homicide under P.D. 532, the "Anti-Piracy and Anti-Highway Robbery Law of 1974." What appellants committed is the crime of robbery with homicide, which is distinct from the offense covered by P.D. 532 which punishes, among others, indiscriminate highway robbery.

Highway robbery/brigandage is defined in Section 2 (e) of said decree as "(t)he seizure of any person for ransom, extortion or other unlawful purposes, or the taking away of the property of another by means of violence against or intimidation of person or force upon things or other unlawful means, committed by any person on any Philippine Highway." As manifest in the preamble of said decree, its objective is to deter and punish lawless elements who commit acts of depredation upon persons and properties of innocent and defenseless inhabitants who travel from one place to another thereby disturbing the peace and tranquility of the nation and stunting the economic and social progress of the people. Consonant with this expressed policy, in *People v. Puno*,[29] the Court said:

In fine, the purpose of brigandage is, inter alia, indiscriminate highway robbery. If the purpose is only a particular robbery, the crime is only robbery, or robbery in band if there are at least four armed participants. The martial law legislator, in creating and promulgating Presidential Decree No. 532 for objectives announced therein, could not have been unaware of that distinction and is presumed to have adopted the same, there being no indication to the contrary. This conclusion is buttressed by the rule on contemporaneous construction, since it is one drawn from the time when and the circumstance under which the decree to be construed originated. Contemporaneous exposition or construction is the best and strongest in the law.

Further, that Presidential Decree No. 532 punishes as highway robbery or brigandage only acts of robbery perpetrated by outlaws indiscriminately against any person or persons on Philippine highways as defined therein, and not acts of robbery committed against only a predetermined or particular victim, is evident from the preambular clauses thereof, to wit:

“WHEREAS, reports from law-enforcement agencies reveal that lawless elements are still committing acts of depredation upon the persons and properties of innocent and defenseless inhabitants who travel from one place to another, thereby disturbing the peace, order and tranquility of the nation and stunting the economic and social progress of the people;

“WHEREAS, such acts of depredations constitute x x x highway robbery/brigandage which are among the highest forms of lawlessness condemned by the penal statutes of all countries;

“WHEREAS, it is imperative that said lawless elements be discouraged from perpetrating such acts of depredations by imposing heavy penalty on the offenders, with the end view of eliminating all obstacles to the economic, social, educational and community progress of the people.” (Emphasis supplied.)

Indeed, it is hard to conceive of how a single act of robbery against a particular person chosen by the accused as their specific victim could be considered as committed on the “innocent and defenseless inhabitants who travel from one place to another,” and which single act of depredation would be capable of “stunting the economic and social progress of the people” as to be considered “among the highest forms of lawlessness condemned by the penal statutes of all countries,” and would accordingly constitute an obstacle “to the economic, social, educational, and community progress of the people,” such that said isolated act would constitute the highway robbery or brigandage contemplated and punished in said decree. This would be an exaggeration bordering on the ridiculous.

In other words, a conviction for highway robbery requires proof that several accused were organized for the purpose of committing highway robbery indiscriminately. There is no such proof in this case. Neither is there proof that appellants previously attempted to commit similar robberies to show the “indiscriminate” perpetration thereof.[30]

Nonetheless, the designation of the crime in the information as “highway robbery with homicide (Violation of P.D. 532)” does not preclude conviction of the appellants of the crime of robbery with homicide. In the interpretation of an information, what controls is not the designation but the description of the offense charged.[31] The crime of robbery with homicide is clearly alleged in the information notwithstanding its erroneous caption. It is an offense necessarily included in that with which they were charged. Accordingly, appellants should be liable for the special complex crime of robbery with homicide. Said crime is committed when, on the occasion of the robbery, homicide resulted.[32] Consequently, all those who took part in the robbery are liable as principals therein although they did not actually take part in the homicide.[33]

Under Article 294 (1) of the Revised Penal Code, robbery with homicide is punishable by reclusion perpetua to death. No mitigating or aggravating circumstances attended the commission of the crime. Thus, in accordance with Article 63 (2) providing that in the absence of neither mitigating or aggravating circumstances in crimes in which the law prescribes a penalty composed of two indivisible penalties, the lesser penalty shall be applied, and therefore the imposable penalty in this case is reclusion perpetua.

The claims for P70,000 burial and incidental expenses and P100,000 moral damages had all been conceded by counsel for appellants who found these claims “quite reasonable.”[34] Hence, the trial court treated the same as admissions and accordingly dispensed with the presentation of evidence.[35] In line with well-established jurisprudence, appellants shall also be solidarily liable to pay the heirs of the victim the amount of P50,000.00 as civil indemnity.

WHEREFORE, the Decision convicting appellants Romulo Versoza and Jerry Avendaño y Mendoza (Cherry Abendaño y Pagatpat) of the crime of highway robbery with homicide is hereby MODIFIED. Appellants are found guilty of the crime of robbery with homicide defined and penalized under Article 294 (1) of the Revised Penal Code and are accordingly each imposed the penalty of reclusion perpetua. They shall jointly and severally pay the heirs of Alberto Aplao the amount of P50,000.00 as civil indemnity, P70,000.00 as interment and burial expenses, and P100,000.00 as moral damages . Costs de oficio.

SO ORDERED.

Narvasa, CJ. (Chairman), Romero and Purisima , JJ., concur.

[1] Presided by Judge Benjamin M. Aquino, Jr.

[2] Rollo, p. 5.

[3] TSN, 1 July 1994, p. 3.

[4] TSN, 15 July 1994, p. 5.

[5] Exhibit A.

[6] TSN, 4 July 1994, p. 4.6

[7] Exh C.

[8] TSN, 4 July 1994, pp. 4-5.

[9] TSN, 15 July 1994, pp. 4-5.

[10] TSN, 15 July 1994, p. 6.

[11] TSN, 1 July 1994; pp. 9-10.

[12] Exh. G.

[13] TSN, 15 August 1994, pp. 4-7.

[14] TSN, 21 September 1994, pp. 1-12.

[15] Decision, Rollo, pp. 28-31.

[16] Id., at 31.

[17] Rollo, pp. 114-118.

[18] 249 SCRA 54, 95 (1995).

[19] Ibid., citing Neil v. Biggers, 409 U.S. 188 (1973).

[20] People vs. Apongan, 270 SCRA 713, 726 (1997).

[21] TSN, 1 July 1994, pp. 6-8.

[22] People v. Reception, 198 SCRA 670, 677 (1991).

[23] People v. Teehankee, pp. 97-98 citing People v. Campa, 230 SCRA 431 (1994).

[24] Ibid., citing *People v. Apawan*, 235 SCRA 355 (1994).

[25] *People v. Java*, 227 SCRA 668 (1993).

[26] *People v. Ilano*, 313 Phil. 442 (1995).

[27] *People v. Ortaleza*, 258 SCRA 201 (1996).

[28] *People v. Ilano*, *supra*.

[29] 219 SCRA 85, 98.

[30] *People v. Mendoza*, 324 Phil. 273, 292 (1996).

[31] *Id.*, at 295.

[32] Art. 294 (1), Revised Penal Code.

[33] *People v. Cobre*, 239 SCRA 159 (1994).

[34] TSN, 24 June 1994, pp. 3-4.34

[35] Rule 129, Sec. 4, Rules of Court.

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